

Mark E. Ellis - 127159
Anthony P. J. Valenti - 284542
ELLIS LAW GROUP LLP
1425 River Park Drive, Suite 400
Sacramento, CA 95815
Tel: (916) 283-8820
Fax: (916) 283-8821
mellis@ellislawgrp.com
avalenti@ellislawgrp.com

Attorneys for Defendant RASH CURTIS & ASSOCIATES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ, on Behalf of
Themselves and all Others Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No.: 4:16-cv-03396-YGR JSC

**DECLARATION OF ANTHONY P. J.
VALENTI IN SUPPORT OF DEFENDANT
RASH CURTIS & ASSOCIATES' REPLY
BRIEF IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OR PARTIAL
SUMMARY JUDGMENT [FED. R. CIV. P.
56]**

Date: January 30, 2018

Time: 2:00 p.m.

Ctrm: 1

Judge: Hon. Yvonne Gonzalez Rogers

I, Anthony P. J. Valenti, declare:

1. I am an attorney at law duly licensed to practice before this Court, and I am an associate in the law firm of Ellis Law Group LLP, attorneys of records for Defendant RASH CURTIS & ASSOCIATES in the above matter. This declaration is based upon my own personal knowledge except as to those matters stated upon information and belief, and as to those things I believe them to be true. If called as a witness to testify to the matters asserted herein I would do so competently.

2. I offer this declaration in support of Rash Curtis' Reply Brief in support of its Motion for Summary Judgment or Partial Summary Judgment.


3. Plaintiffs have asked this court to strike Defendant's **Exhibits 18 and 19** on the grounds that they were not timely produced. However, **Exhibits 18-19** were produced more than a month before the December 1, 2017 discovery cutoff date. **Exhibit 18**, which depicts the ECA Advanced Trace Report which Rash Curtis obtained from Experian via LexisNexis in connection with Mr. Reynoso, was created on October 12, 2017. **Exhibit 18** was subsequently batestamped as RCA 194 and produced three days later, on October 15, 2017, as part of Rash Curtis' third supplemental production of documents. **Exhibit 18** was also batestamped RCA 279 and subsequently produced again a week later, on October 23, 2017, as part of Rash Curtis' fourth supplemental production of documents. **Exhibit 19**, which depicts the Edit Tracking Report for Mr. Reynoso's account, was created on October 13, 2017. It was subsequently batestamped RCA 280 and produced ten days later, on October 23, 2017, as part of Rash Curtis' fourth supplemental production of documents.

4. **Exhibits 18-19** were not generated using any part of the "Beyond" software platform created by DAKCS and used as the basic collection platform; rather, the ECA report is obtained from Experian through LexisNexis. Neither the ECA Report nor the Edit Tracking Report may be printed, *i.e.*, there is no way to generate these files using Rash Curtis' "Beyond" collection software platform. The only way to obtain printable images of the ECA Report (**Exhibit 18**) and the Edit Tracking Report (**Exhibit 19**) from "Beyond" is to capture a screenshot and save it as an image file, which is exactly what Rash Curtis did. Despite having these documents in their possession, Plaintiffs elected not to question Rash Curtis' employees about these documents during their depositions, which were held on October 16, 2017, October 20, 2017 and October 24, 2017. Plaintiffs' also elected not to propound any interrogatories or requests for admissions regarding these documents, despite the fact that fact discovery did not close until December 1, 2017.

5. Plaintiffs were on notice of the underlying fact evidenced by **Exhibits 18-19**, *i.e.*, that Rash Curtis did not skip-trace Mr. Perez's cell phone number (ending in 5193) by as early as August 24, 2017. (*See* Defendant's Supplemental Opposition to Plaintiffs' Motion for Class Certification, Dkt. No. 71, pp. 2:17-23, 3:19-21, 7:23; Declaration of Bob Keith, Dkt. No. 71-2, ¶ 4, **Exhibit 6**, p. 1.) Plaintiffs' allegations that Rash Curtis has "sandbagged" them are simply preposterous. They had

1 plenty of time to investigate this issue, especially in light of the court's order vacating the initial
2 October 25, 2017 discovery cutoff date. (See Dkt. No. 107.) They simply chose not to.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct and that this Declaration was executed on this January 8, 2018 in
5 Sacramento, California.

6 
7 _____
8 Anthony P. J. Valenti